

REMARKS

Applicants respectfully request reconsideration of the application in view of the foregoing claim amendments and the following remarks.

I. Status of the Claims

Claims 1- 11 are pending. Claims 1 – 2 are withdrawn. Claim 4, 7 and 9 are cancelled without prejudice. Claims 3 and 9 are amended. Claims 3 – 11 are rejected.

Claim 3 has been amended so that the phrase “a group consisting of” has been changed to “the group consisting of” and also to include particles having a particle size of 105 μm to 2 mm, wherein the proportion of the particles having the particle size is 85% or more by weight. Claim 9 has been amended for formatting. No new matter has been added.

II. Background of the Invention

The granulated flavor of the present invention is produced by (a) compacting with rollers a powdered flavor prepared from raw materials containing a flavor and a carrier to obtain a partially melted plated matter, (b) cooling the plated matter, and (c) grinding and granulating the cooled plated matter as indicated in Claim 1. Since the granulated flavor of the present invention is obtained by cooling the partially melted plated matter and grinding and granulating the cooled plated matter, the granulated flavor of the present invention has a melted-cooled state in part and a non-melted hard state in part.

The partially melted plated matter obtained in the above method is a plated matter that is not totally melted. The partially melted plated matter can maintain the shape by itself. It can be returned

to the original powdered state if it is cooled and crushed by pressure, i.e., the surface of the plated matter is partially or fully in a viscous state while the inside is hard enough to support itself. (Applicant's specification, p. 8, lines 12 -15.)

The term plated matter refers to a wide zonate with a constant thickness or an equivalent, i.e., "plate-like substance." (Applicant's specification, p. 8, lines 8-9).

III. Claim Objections

Claim 3 is objected to because of informalities. The phrase "a group consisting of" has been changed to "the group consisting of."

IV. Claim Rejections under 35 U.S.C. § 112, second paragraph

Claims 3 – 11 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner specifically contends that the expression "a granulated flavor for use in foods and beverages, wherein the granulated flavor has a hardness of $1 \text{ N/mm}^2 - 50 \text{ N/mm}^2$ " is indefinite since it recites compounds by what it is desired that they do rather than what they are.

Claim 3 has been amended to include the parameters of claim 4. The granulated flavor having a hardness of $1 \text{ N/mm}^2 - 50 \text{ N/mm}^2$ can be obtained by using particles having a particle size of 105 μm to 2 mm, wherein the proportion of the particles having the particle size is 85% or more by weight. Based on this amendment, Applicant respectfully submits that the claim is no longer indefinite and the Examiner's rejection is now moot.

V. Claim Rejections under 35 U.S.C. § 102

Claims 3, 5, 6, 8, 9, and 11 are rejected under 35 U.S.C. §102(b) as being anticipated by Benczedi et. al. (U.S. Pub. No. 2001/0036503). Specifically, the Examiner contends that Benczedi discloses a granulated flavor for use in foods and beverages containing: a carrier selected from the group consisting of hydrophilic proteins, maltodextrin, starches, modified starches, hydrophilic polysaccharides, partially hydrolyzed proteins, partially decomposed starches and saccharides, wherein the granulated flavor has a moisture content.

Applicant respectfully traverses the rejection.

Applicant's claim 3 now includes particles having a particle size of 105 μm to 2 mm, wherein the proportion of the particles having the particle size is 85% or more by weight. Benczedi does not include particle sizes in this range or proportion; therefore, Applicant submits that the present invention is not anticipated by the reference.

VI. Claim Rejections under 35 U.S.C. § 103(a)

Claims 4, 7 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Benczedi in view of the Examiner's view of the art. Specifically, the Examiner contends that it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the particle size and proportion of particles having that size for the intended application.

Claims 4, 7, and 9 have been cancelled making the rejection moot.

Applicant respectfully traverses the rejection.

The elements of claims 4, 7, and 10 have been added to claim 3. As noted, Benczedi does not disclose this feature. Further, Benczedi does not teach or suggest this feature and one ordinarily skilled in the art would not have been motivated to include this feature.

Applicant's invention has a partially melted plated matter. This is a plated matter that is not totally melted. As discussed in Section II of the remarks, the granulated flavor of the present invention is obtained by cooling the partially melted plated matter and grinding and granulating the cooled plated matter, so the granulated flavor of the present invention has (i) a melted-cooled state in part and (ii) a non-melted hard state in part.

In contrast, Benczedi discloses that the granulated flavor is obtained by heating the mixture to a temperature between 90 and 130°C to form a molten mass. Benczedi discloses that "it has to be above the glass transition temperature of the carbohydrate matrix in order to keep the mixture in the form of a molten mass." (Benczedi, p. 3, paragraph 30.) It is clear that in order to form a molten mass of the mixture in Benczedi, the mixture should be totally melted. Thus a "partially melted plated matter" in Benczedi's final product cannot be obtained by the methods in Benczedi and the granulated flavor of Benczedi cannot have both a melted-cooled state in part and a non-melted hard state in part. One of ordinary skill in the art would not have looked at Benczedi as motivation to use a partially plated matter in order to obtain the present invention.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below once he has reviewed the proposed amendment, if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

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Respectfully submitted,

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